

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EVANSTON INSURANCE COMPANY,

Plaintiff,

-against-

BIOMEDICAL TISSUE SERVICES, LTD. and
MICHAEL MASTROMARINO,

Defendants.
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ORDER

06 Civ. 1107 (BMC)(JO)

COGAN, District Judge.

This matter is before the Court on the Report and Recommendation of Magistrate Judge James Orenstein in which he recommended granting the plaintiff's motion for a default judgment as to the first two causes of action. The Court has reviewed the Report and Recommendation and no objections have been received. The Court adopts the Report and Recommendation, adding only that with regard to the discussion of subject matter jurisdiction, the Declaratory Judgment Act, 28 U.S.C. § 2201, does not support federal question jurisdiction, which is why plaintiff properly invoked diversity jurisdiction.

The motion [7] for a default judgment is GRANTED, and the Clerk is directed to enter a judgment in favor of plaintiff stating that the policy that plaintiff issued to defendant known as Professional Liability Insurance Policy for Specified Medical Professions No. SM-833203 is deemed rescinded and void *ab initio*.

SO ORDERED.

s/Brian M. Cogan

Dated: Brooklyn, New York
November 16, 2007

U.S.D.J.
